

## ACQUISITION ADVISORY PANEL

Meeting Minutes

November 29, 2005

The Auditorium, General Services Administration (GSA)  
Washington, D.C.

The Acquisition Advisory Panel (AAP) convened its fourteenth meeting on November 29, 2005 in the auditorium at the General Services Administration (GSA), Washington D.C. Ms. Marcia Madsen, Chair of the AAP, opened the meeting at approximately 09:10 AM.

The Chair welcomed everyone to the meeting and explained that the day's agenda included a presentation from the Veterans Affairs (VA) National Acquisition Center's (NAC) Federal Supply Schedule Service. Ms. Madsen stated that the Appropriate Role of Contractors Working Group would outline its preliminary findings, and the Interagency Contracting and Performance-Based Services Acquisition Working Groups would brief their preliminary recommendations. Ms. Madsen remarked that the remaining Working Groups would provide preliminary recommendations at the next AAP meeting scheduled for December 16<sup>th</sup> at the Federal Deposit Insurance Corporation (FDIC) facility.

The guest speaker and her affiliation were as follows:

<u>Presenter</u>	<u>Affiliation</u>	<u>Attachment</u>
Ms. Dorothy Fessler	Veterans Affairs National Acquisition Center	Attachment 1

The three Working Group updates were as follows:

<u>Presenter</u>	<u>Working Group</u>	<u>Attachment</u>
Dr. Allan Burman / Mr. Carl DeMaio	Performance-Based Services Acquisition	No Attachment
Mr. Thomas Luedtke	Appropriate Role of Contractors	No Attachment
Mr. Jonathan Etherton	Interagency Contracting	Attachment 2

Panel Chair Marcia Madsen called the roll. The following Panel Members were present:

Mr. Louis Addeo  
Mr. Frank J. Anderson, Jr. (arrived at 9:20 AM)  
Dr. Allan V. Burman  
Mr. Carl DeMaio  
Mr. Marshall J. Doke, Jr.  
Mr. David A. Drabkin  
Mr. Jonathan Lewis Etherton  
Mr. James A. (Ty) Hughes, Jr.  
Mr. David A. Javdan  
Ms. Deidre A. Lee  
Mr. Thomas Luedtke  
Ms. Marcia G. Madsen  
Mr. Joshua I. Schwartz

The following Panel Member was not in attendance:

Mr. Roger D. Waldron

Panel Chair Marcia Madsen discussed the timeline for posting and circulating Working Groups' draft recommendations. She stated that draft recommendations and associated supporting discussions should be circulated to the full Panel by December 16<sup>th</sup>. Her intent, she said, is for the Panel to begin voting on Working Group recommendations at the two meetings scheduled in January. She stressed the importance for Panel Members to provide comments on draft recommendations to each of the Working Group Chairs prior to the January 5<sup>th</sup> meeting.

#### Performance-Based Services Acquisition Working Group Presentation

The Chair turned the meeting over to the Performance-Based Services Acquisition (PBSA) Working Group Co-Chairs, Dr. Allan Burman and Mr. Carl DeMaio. Dr. Burman acknowledged members of the Working Group, and presented the Group's preliminary findings to the Panel. Overall, the Working Group determined through interviews and discussions that PBSA has not been fully implemented governmentwide, and that adequate data may not be available on the current state of implementation. The Working Group identified the following preliminary findings:

- Information obtained from presenters and Government accountability reports indicates that despite the Office of Management and Budget (OMB) target, agencies are unsure when to use PBSA.
- Many solicitations focus on activities and processes, rather than performance results and outcomes.
- PBSA's potential for generating transformational solutions to agency challenges remains largely untapped.
- Due to priorities within federal acquisition functions, there exists a drive to "get to award" at the expense of post-award activity.
- Post-award contract performance monitoring needs to be improved.
- Most contract incentives are not aligned to Government objectives.
- Data on the use and success of PBSA is insufficient. There is a need for better data on usage; however, data gathered indicates that 41% of service contracts are performance-based.

Mr. DeMaio introduced the following additional issues that the Working Group is reviewing, noting that these issues may not result in formal recommendations:

- Better guidance on when and how to use performance-based services contracts is needed. The Federal Acquisition Regulation (FAR) definition is currently in the process of being revised.
- Instead of an across-the-board quota for all agencies (currently set at 40%), a sliding scale concept is being considered that would assign agencies different percentage goals based on the how well agency requirements lend themselves to being crafted into PBSA contracts.
- The PBSA Working Group recognizes that implementation of PBSA involves technical challenges for the workforce; therefore, the Working Group is considering various approaches to improve training for the acquisition and program staffs.

- The Working Group is considering creating a template to modify the Office of Federal Procurement Policy's (OFPP) *Seven Step* process to allow for more focus on transformational change.
- There is a need to enhance post-award contract performance management and monitoring that allows for adjustments as agency needs evolve. Consideration is being given to the creation of a Contracting Performance Representative, similar to the Contracting Technical Representative role, who would be responsible for monitoring the performance of contracts post-award.
- The Working Group is examining the concept of a two-step down-select process, a process already utilized by industry.
- The Working Group identified a need for enhanced market research, already an element of OFPP's *Seven Step* process.
- The Working Group highlighted testimony emphasizing the importance of defining and understanding baseline information as a starting point to determine quality standards for PBSA metrics.
- Noting that testimony from the private sector addressed the importance of fostering positive relationships, the Working Group is considering ways to enhance relationship management in the PBSA *Seven Step* process.

Panel Chair Marcia Madsen opened the floor for comments and questions from Panel Members.

Noting that inadequacy of data is a common theme across all of the Panel's Working Groups, and that acquisition workforce is encumbered with many responsibilities, Panel Member Jonathon Etherton asked the PBSA Working Group to comment on specific recommendations it anticipates making on data collection. Working Group Members Carl DeMaio and Dr. Allan Burman responded that although some data is available, it had not been sufficiently reviewed to make specific recommendations. However, both expressed concern that the data is inconsistent and may reflect coding of contracts into the Federal Procurement Data System – Next Generation (FPDS-NG) as performance-based when, in fact, the contracts do not include the performance-based attributes required by the FAR.

Panel Member Ty Hughes asked the PBSA Working Group to comment on incentives and disincentives to achieve performance above a contract's stated objectives, and what can be done when performance objectives are not met. Carl DeMaio responded that testimony had established that relationship management includes "*finding the right incentives to motivate continual improvement.*" He said that the Working Group had barely begun to investigate the issue of incentives, and noted that the Working Group's approach would be to view incentives as "*the vehicle by which the relationship is managed over time or continual improvement to readjust expectations.*" In response to a follow-up question from Mr. Hughes, Mr. DeMaio explained that the Working Group was looking at necessary competencies and project management certification models.

Returning to the subject of data collection, Panel Chair Marcia Madsen advised that all Working Group recommendations associated with data should not simply be a list of data fields required, but should instead describe uses for the data and why it would be of value, particularly because legislative changes may be required. Carl DeMaio added that the PBSA Working Group is considering an assessment-rating tool based on standardized questions to review all contracts.

Professor Schwartz suggested various ways for assembling all Working Groups' recommendations on data including the creation of an ad hoc report-writing group.

Panel Member Marshall Doke commented that although some data on PBSA may be unreliable, the data may suggest that PBSA "*is just not working*." He explained that the Government has 15 years of experience, yet no Government agency has testified to the Panel that PBSA is a success; instead, they have discussed problems with implementing and preparing statements of work that clearly express what the Government wants and does not want. He said that the data on PBSA usage does not address whether the contracts were successful or an improvement on the past.

Panel Member Joshua Schwartz agreed that if the Working Group believes PBSA is not working, it should raise the issue, but expressed his opinion that it was too soon to make such a judgment. He suggested that because of a lack of an adequate workforce, training and time, PBSA has not received a fair test. Ms. Madsen advised that the Panel's questions to presenters had predominately been focused on PBSA problems, but providing positive feedback had not been precluded. Panel Member Carl DeMaio expressed his belief that PBSA data, while unreliable and inconclusive, has been misinterpreted. He said that while the data is flawed, anecdotally, PBSA has been a definite success, noting that none of the Panel's private sector or Government presenters had suggested that PBSA be abandoned. Instead, he said, they recognize that the focus should be on proper implementation. Dr. Burman explained that while there has been no systematic review of PBSA since 1998, he has seen successful instances of its use over the years. Ms. Madsen suggested that there may be too many acquisition techniques and the workforce may be being tasked to do too much. Performance-based contracting, she said, needs to be made user-friendly, and guidance on when it should be used should be developed.

The Chair thanked Dr. Burman and Mr. DeMaio for their report and efforts to date. She encouraged Working Groups to circulate any portion of preliminary findings they had completed.

#### Appropriate Role of Contractors Supporting the Government Working Group

Noting that the name of the Working Group had recently been changed from Inherently Governmental, Panel Chair Marcia Madsen asked Panel Member Thomas Luedtke, Chair of the Appropriate Role of Contractors Supporting the Government Working Group, to share its preliminary findings. Mr. Luedtke thanked members of his Working Group and support staff for their efforts to date. Mr. Luedtke presented the following preliminary Working Group findings:

- The Government increasingly relies on contractors to perform its mission. The existing civil service workforce alone cannot meet the demands.
- The expansion of the amount and types of services performed by contractors has led to questions regarding what should be considered *inherently governmental*.
- The increasing occurrence of a blended workforce, where contractors and civil servants work together on particular tasks, has raised issues relating to *personal services*. The Working Group believes the blended workforce is a permanent condition because of civil service workforce downsizing and simultaneously increasing Government expectations.

- There is inconsistent interpretation across Government of what work is considered inherently governmental and a personal service, resulting from differing missions and differing interpretations of the same rules in similar situations.
- To alleviate confusion and problems, greater clarity is needed for concepts and application of inherently governmental and personal services.
- There is a need to examine inherently governmental and personal services in the context of unique emergency situations (e.g., Hurricane Katrina and the Iraq Conflict).

Panel Member Joshua Schwartz thanked the Working Group for dealing with very difficult issues, and commended it for both its common-sense approach and for raising the possibility of different rules for emergency contracting situations. In response to a question from Panel Member Allan Burman on emergency contracting, Mr. Luedtke explained that he did not anticipate development of special rules, but rather ensuring that the workforce is better trained on contingency contracting and the more efficient use of existing vehicles. He noted that criticism over Hurricane Katrina contracting was levied for both action and inaction. Panel Chair Marcia Madsen suggested that it might be useful to review how special circumstances have been handled in the past. She cited the Atomic Energy Commission and Department of Energy as possible sources of lessons-learned. Ms. Madsen also raised the issue of liability protections for contractors working in these special circumstances, and said different allocation of risk to all parties should be a consideration in contracting. Mr. Luedtke advised that the Group would review these issues, but he intends to avoid turning the Group into an emergency-contracting group. Panel Member Deidre Lee cautioned against focusing on contracting function alone, that focus should be on the entire acquisition process including programmatic and budgeting functions. Panel Member Ty Hughes observed that inherently governmental and personal services issues are not unique to emergency contracting, but are pervasive throughout the full range of contracting.

The Chair thanked Mr. Luedtke for his presentation and recessed the meeting at 10:10 AM for a short break.

#### Guest Speaker

Ms. Madsen reconvened the Panel meeting at 10:35 AM, and introduced Ms. Dorothy (Dore) Fessler, Assistant Director for Medical Services at the VA NAC, located in Hines, Illinois (Attachment 1). Noting that Ms. Fessler had worked at GSA prior to her move to VA NAC in 1993, Ms. Madsen explained that Ms. Fessler had been invited to address the Panel to present VA's unique practices under its schedules program.

Ms. Fessler thanked the Chair for the opportunity to speak to the Panel, and explained that she was speaking on behalf of Ms. Carole O'Brien, NAC Director, who was unable to address the Panel due to illness. Ms. Fessler said that the VA's NAC operated under delegated authority from GSA to manage the Federal Supply Schedules (FSS) for Federal Supply Class (FSC) 65 items (medical care supplies, surgical supplies, equipment, pharmaceuticals, and since 1999, services). VA's FSS program sales for fiscal year 2005 totaled \$6.9B, and are expected to increase to \$7.5B in fiscal year 2006.



Ms. Fessler explained that VA established its fee structure to cover the cost of managing the program. The VA industrial funding fee is currently set at one-half of one percent for VA's product schedules and its test services schedule (FSC 66), and one percent for all other VA services schedules. Ms. Fessler said that when establishing indefinite-delivery-indefinite quantity schedules contracts with its vendors, VA uses a guaranteed minimum with no maximum order limitation, only a maximum threshold. VA also uses firm-fixed price contracts with economic price adjustments, as well as a continuous solicitation cycle to allow staggering of awards.

Ms. Fessler observed that the definition of commerciality poses challenges for VA. She said that although a product or service may traditionally be considered commercial, some vendors may decline to do business in the commercial world. Ms. Fessler questioned whether for these vendors, most favored customer (MFC) pricing results in fair and reasonable pricing. For medical services, she explained, there is no true catalogue pricing; therefore, her organization relies on the market to set the price. She explained that VA occasionally performs pre-award audits allowing for better insight into vendor pricing. Her organization maintains history on pricing, volume, market conditions, and unique concessions, term and conditions for various commodities and services. For services, she noted, the stability of local markets is a key factor in establishing labor rates.

Ms. Fessler elaborated on other contracting procedures and techniques used by VA including MFC pricing, pre-award reviews by VA's Office of Inspector General, Commercial Sales Practice (CSP) disclosures, economic price adjustments, price protection provisions, and establishment of relatively consistent terms and conditions. She discussed VA's Price Reduction Clause (a deviation from GSA's post-award audit practice) which preserves VA's right to initiate audits of pre-award disclosures for a period of up to two years after certain events (Clause AS13 - Feb 1998). Additionally, she explained, VA diligently tracks pricing and market conditions following award, and, when appropriate, re-negotiates through an Economic Price Adjustment Clause to ensure VA continues to receive value. She said that VA posts its solicitations on the E-Buy system, and that this practice has received positive feedback from customers and vendors.

Ms. Fessler described challenges VA faces procuring medical services. VA's implementation of the Service Contract Act (SCA) for commercial services is, she said, problematic; in some locations, SCA labor rates preclude award at a lower, yet commercial, fair market value. Medical malpractice insurance and other insurances, as well as licensures, are required for clinical services. Ms. Fessler explained that the majority of the cost of a service is contingent upon the cost of labor, which is then heavily influenced by location. The challenges, she said, of establishing fair market and reasonable pricing for geographic coverage are growing. VA has planned a January meeting with the Department of Labor to discuss wage determination issues. Ms. Fessler introduced PBSA and its application to the procurement of medical services. She said that PBSA is dependent on articulating a defined outcome in the statement of work or objectives. She asked several rhetorical questions on the suitability of using PBSA for direct patient care: what is an acceptable outcome of a doctor treating a patient?; and what metric(s) should be used to quantify success?

Following a brief discussion on the overlap and duplication of acquisition programs, especially in light of what she believes is a shortage of experienced 1102 contracting personnel, Ms. Fessler solicited comments and questions from Panel Members.

Panel Member Jonathan Etherton requested additional details on the overlap of contract vehicle providers, and what actions VA is taking to minimize duplication. Ms. Fessler responded that she has contacted other agencies, and VA is working to tailor its programs to be more user-friendly and better meet customers' needs. She explained that the Department of Defense (DoD) uses its authority to procure clinical services as personal services, but that VA NAC lacks authority to award personal services contracts. Mr. Etherton asked if duplication of programs is related to organizations wishing to avoid a fee, to which Ms. Fessler responded that most vendors under the schedules program absorb the fee as a cost of doing business because they want to remain competitive and wish to deal with only a single contract. She noted that when an organization uses its own contracts, it avoids a fee, but must fund the cost of operating the program. In response to a question from Mr. Etherton on the assignment and enforcement of responsibilities between the vehicle holders and users, Ms. Fessler advised the Panel that VA established a help desk to assist in placing orders, but policing compliance lies within each individual ordering agency. She continued that the FAR provides the process, VA NAC provides training, and she believes ordering agencies need to ensure accountability.

In response to a question from Panel Member Ty Hughes on the process for determining fair and reasonable prices on procurements for professional services, Ms. Fessler responded that better tools are needed. She said that most vendors provide the Government with direct labor disclosures and price build-ups, but no validation process currently exists. In response to several questions from Panel Member Deidre Lee, Ms. Fessler explained that VA collects sales data, but does not collect sales data by customer. VA is looking at ways to cross-reference information and develop better mechanisms to report past performance information. She explained that establishing special item numbers (SINs) is helpful at a certain level, but that too many subcategories becomes unmanageable. Ms. Lee asked how VA handles other direct costs (ODCs). Ms. Fessler explained that because of FAR requirements to ensure all items are considered for competition, VA avoids inclusion of ODCs that were not originally contemplated at contract award.

Panel Member Marshall Doke asked Ms. Fessler to elaborate on her discussion of PBSA implementation challenges for procurement of direct patient care, and asked whether obstacles were systemic, caused by a lack of guidance or training, or some other reason. Ms. Fessler reiterated previous comments about the difficulty of defining what constitutes a good outcome for a physician in a clinical setting. She explained that VA struggles with PBSA and therefore, she is unsure whether PBSA is helpful for VA at this time. Panel Members agreed that outcomes relating to whether a patient lives or dies, or whether a physician shows up to work daily, are inadequate measures for PBSA. Panel Member Carl DeMaio suggested that the desired PBSA outcome should be viewed, not in terms of the patient, but rather, in terms of the outcome for the agency. Dr. Burman recommended that contractor past performance be utilized in crafting future PBSA contract objectives and measurements, and suggested that practitioners may be over-complicating PBSA implementation. Ms. Fessler explained that VA often does not know what type of medical expertise it will take to be successful over a period of time, that it cannot predict whether a doctor will be treating flu or cancer, or how many of each will walk through the door.

In response to a question from Panel Chair Marcia Madsen, Ms. Fessler explained the process of cost build-ups and the information VA reviews to accomplish the build-up. She advised that VA generally includes a factor of about 2 percent for contingencies, usually insurances, and then evaluates proposed labor category prices based on locale. Ms. Fessler said that VA reviews for realism, but additional tools to accomplish this review would be helpful. She noted that the Defense Contract Audit Agency audits some contractors' systems, but not their labor rates. And, she said, VA's Inspector General validates whether contractors provide full pre-award disclosures, and almost always makes recommendations on price.

Panel Member Joshua Schwartz observed that drafting performance-based statements of work for medical services is especially difficult because the degree to which all customers are satisfied is a consideration as well as the satisfaction of the Government agency managing the contract. Professor Schwartz suggested that this scenario strongly supports the use of a "sliding scale" for application of PBSA; it works better in some situations than others. Ms. Fessler agreed that different missions have different potential for PBSA use, and, she said, there may be better ways of buying and setting realistic percentage goals so that the system is not manipulated.

In response to a question from Professor Schwartz on the adequacy of VA NAC's acquisition workforce in the areas of staffing, training, and organization, Ms. Fessler informed the Panel that because it had recently reorganized, VA NAC is adequately staffed. However, she said, VA has difficulty recruiting and retaining good contracting personnel (series 1102). In response, VA has had to provide more training to lower level employees. Additionally, she said, the agency reimburses for relocation expenses. In response to a question from Panel Member Deidre Lee, Ms. Fessler said that VA NAC does not currently allow employees to telework, but she believes making it available would benefit recruitment and retention of employees. Because VA NAC has expanded its mission, it has received an increase in full-time equivalent positions. She advised that VA NAC fills positions at the entry level, with career ladders when necessary.

In response to a follow-up question from Panel Member Jonathan Etherton on the impact of the SCA and post-award audits on the willingness of commercial entities to participate in Government contracting, Ms. Fessler said that she could not reply definitively because VA had not conducted surveys, nor collected or measured any data. But, she said, compliance audits for labor categories have found some discrepancies, and if responding becomes burdensome, vendors may choose not to do business with the VA. She said that some companies have established separate Government divisions to better deal with the confusion of having to comply with state and federal laws, but they then risk being viewed as trying to hide information. In response to a question from Panel Chair Marcia Madsen, Ms. Fessler explained that the types of information Government divisions of companies provide the Government to support their labor rates includes salary surveys and trade association trend data.

Panel Chair Marcia Madsen expressed her appreciation to Ms. Fessler for her presentation to the Panel, and at 11:56 AM recessed the Panel meeting for a one-hour lunch break.

#### Interagency Contracting Working Group

Panel Chair Marcia Madsen reconvened the AAP meeting at 1:04 PM. She introduced Panel Members Jonathan Etherton and Frank Anderson, Co-Chairs of the Interagency Contracting



Working Group, and explained that they would be presenting the Working Group's preliminary recommendations (Attachment 2). Mr. Etherton underscored the significance of interagency contracting by highlighting the dollar value and percent of award activity. In fiscal year 2004, he said, 40%, or \$139B, had been awarded under interagency contracts, and of that amount, approximately 62%, or \$86B, was associated with services. The focus of the Working Group, he said, had been on the creation and continuation of interagency contract vehicles utilizing the existing workforce structure to achieve greater accountability and transparency, and that recommendations in the areas of competition and the workforce would be fleshed-out and coordinated with other Working Groups. Mr. Etherton specifically noted that "*there is no free lunch*" with respect to availability of personnel to carry out Working Group recommendations, and for this reason, the Working Group's recommendations rely on use of the existing infrastructure. Adoption of recommendations, Mr. Etherton said, would result in fewer vehicles over time with less unproductive overlap.

Mr. Etherton explained that for the recommendations on the creation and continuation of interagency vehicles, the Working Group assumed four underlying principles and objectives:

- OMB should be accountable for development and promulgation of policies, procedures and guidance.
- Agencies should assume accountability for the authorization, reauthorization, and management of vehicles following OMB guidance, and be subject to review and audit by oversight bodies.
- By following consistent policies across agencies, the revised process over time should result in a coordinated and more meaningful set of interagency vehicles that minimizes unproductive overlap.
- The recommendations may lead to an interim rather than a long-term solution that then should be revisited in the future.

The Interagency Contracting Working Group's preliminary recommendations on the creation and continuation of contracting vehicles were as follows:

- OMB should be tasked with promulgating detailed policies, procedures, and requirements that agencies must follow in their process of authorization and reauthorization of multi-agency and enterprisewide contracts and assisting entities. OMB should retain accountability for developing policies; agencies for authorization, reauthorization and management.
- The recently established OMB Interagency Task Force should be utilized to define the process and mechanism.
- The OMB Interagency Task Force should consider the GWAC model for business case justification analysis and twenty-one topics/issues in those policies and procedures.
- A database be created to identify interagency vehicles for the purposes of: matching requirements to agency needs, monitoring trends, and supporting agency business case justification when considering establishment of new vehicles.
- A detailed analysis of the effectiveness of Panel recommendations and agency actions should be initiated within five years following implementation. An interim report should be generated after three years.

The Interagency Contracting Working Group's principles and objectives regarding competition were:

- Competition in the Government marketplace is beneficial and serves a public good.
- Consistent Governmentwide standards for awarding task orders under interagency contract vehicles are appropriate.
- Establishing a balance between the preservation of streamlined aspects of the use of interagency contracting vehicles and increasing the level of competition under them is an important objective.
- Working Group recommendations on competition within the framework of interagency contracting should be coordinated with those of the Commercial Practices Working Group.

The Interagency Contracting Working Group's recommendations on competition were:

- The requirements of Section 803 of the National Defense Authorization Act for Fiscal Year 2002 should be applied to all agencies when using interagency contract vehicles.
- Stricter enforcement of existing rules for removing contractors from GSA schedules and other vehicles when minimum requirements for orders over time are not reached should be encouraged. The Working Group believes this will result in increased competition.

The Interagency Contracting Working Group's preliminary recommendations on the acquisition workforce were:

- More explicit requirements for training on the creation and continuation of interagency contract vehicles should be developed to include certification and permission to use requirements.
- OMB should lead a review of existing training for relevance and quality.
- Working Group recommendations on the acquisition workforce should be coordinated with those of the Acquisition Workforce Working Group.

Mr. Etherton opened up the floor to questions and comments.

Panel Chair Marcia Madsen advised all AAP Working Groups that when framing their recommendations, each should consider their "*vulnerability to abuse*." In response to a question from Panel Member Al Burman, Mr. Etherton said that when possible, his Working Group would provide specific recommendations for OMB policies and procedures, but that highlighting and framing the issues may be the only submission provided. Panel Member David Drabkin said that to change the review process for GSA vehicles, a change to the Federal Property Services Administration Act would be required, and asked for a better understanding of the rationale for the Working Group making distinctions between different types of GWACs. He noted also that if Working Groups continued to add to OMB responsibilities, OMB would need increased resources. Mr. Etherton noted the recommendation for a statutory change, and said that the Working Group had not intended to make distinctions between GWACs, but instead wanted agencies to focus on distinctions created within their agency. Mr. Etherton further commented that while the Working Group recommended that OMB take on a greater role, that role involves providing better policy and guidance, not assuming an oversight role. Implementation and oversight responsibilities should be assumed by agencies wishing to create or continue an

interagency vehicle. Panel Chair Marcia Madsen advised that if the Panel believes that OMB needs more resources to accomplish the Panel's recommendations, the Panel report should include a recommendation to increase OMB staffing levels.

Panel Member Ty Hughes asked if imposing Section 803 competition requirements on all agencies impacted GAO's bid protest jurisdiction, and questioned whether failure to comply with Section 803 was a protestable action. Mr. Etherton replied that failure to comply was protestable, and asked for other Working Groups' recommendations on the subject. In response to comments from Panel Member Joshua Schwartz, Mr. Etherton explained that the Interagency Contracting Working Group approached the issue with the position that if systemic competition problems were identified, they would be corrected before they reached the protest stage.

Panel Chair Marcia Madsen asked Mr. Etherton if the Working Group had looked at the merits of contract proliferation relative to vehicle diversity. Mr. Etherton responded that the Group had considered the issue and determined that no mechanism exists now to systematically review the appropriate balance between proliferation and diversity, but that the Group focused on agencies assuming responsibility for looking at the larger landscape to determine where their vehicle fits into a grander and more transparent scheme. He called this review a rationalization process. However, he said, the Working Group had concluded that administrative monopolies were not beneficial, and that competition between vehicles encourages innovation. Ms. Madsen suggested that the increasing development of enterprisewide vehicles raises resource questions, and that more analysis is needed. Panel and Working Group Member Deidre Lee added that there is limited information on alternative vehicles available to users.

Panel Chair Marcia Madsen thanked Mr. Etherton for his presentation, and, after ascertaining that there were no additional questions or comments regarding the day's three Working Group presentations, she announced that the next AAP public meeting was scheduled for December 16, 2005 at FDIC auditorium, Washington D.C.

## ADJOURNMENT

The DFO adjourned the fourteenth Acquisition Advisory Panel meeting at 1:56 PM.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



FEB 27 2006

Ms. Marcia Madsen  
Chair  
Acquisition Advisory Panel



---

# **DEPARTMENT OF VETERANS AFFAIRS**

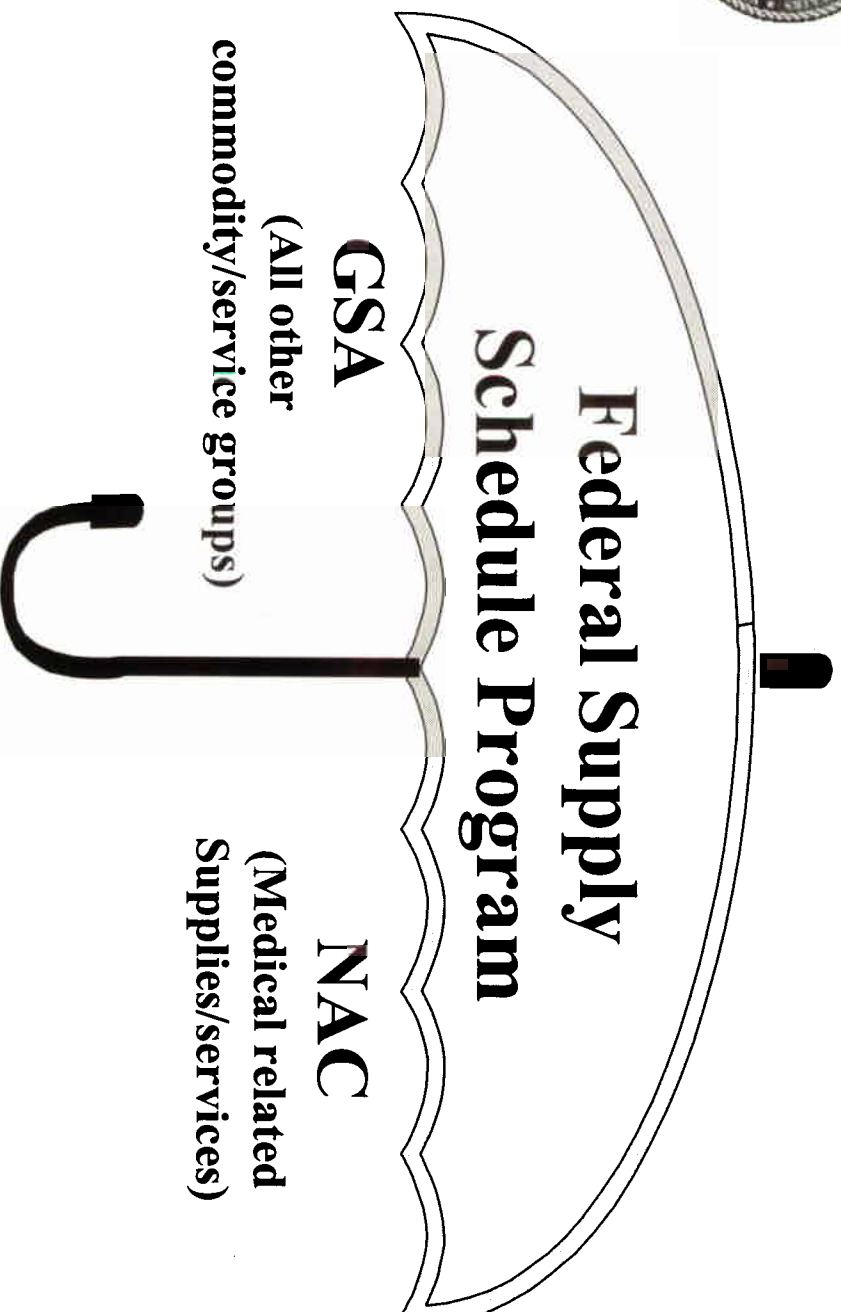
## **Office of Acquisition & Materiel Management**

### **National Acquisition Center**



# • Introductions





**Authority – GSA delegated to Veterans Affairs National Acquisition Center the responsibility for the Federal Supply Schedule program for medical care related supplies, equipment, pharmaceuticals and services.**



# What is the FSS program?

---

- Historically, just about any type of commercial item the government uses from paper clips, to fire engines were on FSS.
- Federal Acquisition Streamlining Act in 1994 and Clinger Cohen Act in 1996 expanded the definition of commercial item to include services.
- With the new flexibilities available through procurement reform, FSS program was expanded to include services.



# Federal Supply Schedule Service

## Overview of the VA Schedules Program

---

65 I B - Drugs and Pharmaceutical-related Products (\$6.5B)

65 II A - Medical Equipment and Supplies (\$440m)

621 I - Professional Staffing Services (\$240m)

66 III -Cost-Per-Test for Clinical Laboratory Analyzers (\$130m)

65 VII - Diagnostic, Reagents, Test Kits and Sets (\$100m)

65 II C - Dental Equipment and Supplies(\$50m)

65 II F - Patient Mobility Devices (\$30m)

65 V A - X-Ray Film, Equipment and Supplies (\$15m)

621 II - Medical Laboratory Testing and Analysis Services-NEW



## **Federal Supply Schedule Service**

### **Overview of the VA Schedules Program**

---

- **New Initiatives**
  - Home IV Therapy
- **FSS Yearly Sales**
  - FY 05 estimate \$7.5 Billion
  - FY 04 actual \$6.96 Billion
- **IFF Collection**
  - FY 04 \$34.8 Million



# Who is Eligible?

---

- Authorized Users – All Federal Agencies and activities in the Executive, Legislative, and Judicial Branches
  - Includes State Veteran Homes with Sharing Agreements
  - FAR Part 51 authorized representatives
  - GSA Website for agency eligibility:

• [www.fss.gsa.gov/portal/gsa/ep/contentView.do?&contentId=8128&contentType=GSA\\_Basic](http://www.fss.gsa.gov/portal/gsa/ep/contentView.do?&contentId=8128&contentType=GSA_Basic)





# VA FSS Program

---

## Type

- Multiple Award Contract
- Indefinite Delivery, Indefinite Quantity (IDIQ)
- Guaranteed minimum/maximum (varies per commodity)
- Firm Fixed-Price Contract with Economic Price Adjustment
- Open and Continuous Solicitation Cycle
- They are multi-year (5 years base), with option to extend for up to an additional 5 years (except for Pharmaceuticals)

## Scope

- National and World-Wide Coverage contracts awarded to responsible manufacturers, distributors or dealers.



# VA FSS Program

---

- Schedules for Supplies
  - 65IB - Pharmaceuticals
  - 65IIA – Medical Equipment & Supplies
  - 65IIC – Dental Equipment & Supplies
  - 65IIF – Patient Mobility
  - 65VII – Diagnostics & Reagents
  - 65VA – X-ray equipment & Supplies



# VA FSS Program for Supplies

---

## Government Price Analysis:

- Starting Point for negotiations - Most Favored Commercial Customer (MFC):

*“Defined as that customer or class of customer which receive(s) the best discount and/or price arrangement on a given item from a supplier. The term includes any entity which does business with the supplier. In MAS contracting, the Government’s negotiation objectives are developed based on a comparison of the MFC arrangement.”*



# **VA FSS Program for Supplies**

---

## **Government Price Analysis (cont'd)**

- **Pre-award reviews:**
  - Over \$3 million to \$5 million per year (dependent upon commodity), Office of Inspector General (OIG)
  - Review offer for accuracy, completeness, and currency
    - Commercial Sales Practice (CSP) disclosures
  - Recommend pricing position



# VA FSS Program for Supplies

---

## **Government Price Analysis (cont'd):**

- Purpose
  - Identify price objectives
  - Foundation for strategy
  - Review against current FSS contracts
- Factors that affect objectives:
  - Volumes
  - Current market conditions
  - MFC determination
  - Special concessions, terms/conditions
  - Price adjustment provision





# VA FSS Program for Supplies

---

## What do we negotiate?

- Tracking Customer
- Basic Discount
- Quantity Discount
- Delivery Terms
- Prompt Payment
- Return Goods Policy
- Expedited Delivery
- Warranty terms
- Installation/Training
- Software License Agreements
- Leasing/Rental Terms
- Annual rebates
- BPA/Incentive Programs
- Distribution Program
- Minimum Orders



# VA FSS Program for Supplies

---

## How we negotiate:

- Offers evaluated independently
- Identification of MFC pricing
- Identification of MFC terms and conditions
- Establishment of negotiations targets
- Negotiation discussions – usually conference call
- Final Pricing Revisions (FPR) – document from which award decision is made



# VA FSS Program for Supplies

---

## Tracking Customer

- Price Reduction Clause
  - Establishment of commercial relationship to track award against
  - Paragraph (a) – Before award of a contract, the CO and the offeror will agree upon:
    - The customer (or category of customers) which will be the basis of award, and
    - The Government's price or discount relationship to the identified customer (or category of customers)



# VA FSS Program for Supplies

---

- **Award Decision - Determining factors:**
  - Is it in the best interest of Government?
  - Did we achieve a fair and reasonable price?
  - Is Offeror responsive and responsible?
  - Did offeror complete all certifications and regulatory requirements in their entirety?
  - Is past performance history satisfactory?
  - Are they financially capable?

**If yes to all --- contract is awardable.**

- **In house review –Over \$500,000, (above AD)**



# VA FSS Program

---

- **Schedules for Services**

- 621 I - Professional and Allied Healthcare Staffing
- 66 III-Cost-Per-Test for Clinical Analyzer, Laboratory
- 621 II - Medical Laboratory Testing and Analysis Services (*NEW!*)
- 621 V - Teleradiology Services (*Coming Soon!*)





# VA FSS Professional Services

---

## Vendor Qualification

- Demonstrate at least 1 year corporate experience in providing medical staffing services
- Demonstrate significant amount of revenue
- Demonstrate capacity for placements in at least one entire state
- Evidence of Professional Liability Insurance (malpractice) minimum amount of \$1 million per occurrence / \$3 million aggregate



# **VA FSS Professional Services**

---

## **Government Analysis:**

- **Technical Proposal**

- Factor A - Corporate Experience
- Factor B - Management Plan
- Factor C - Past Performance
- Factor D - Insurance



# **VA FSS Professional Services**

---

## **Government Analysis (cont'd)**

### **• Price Proposal**

- Lab or Categories by SIN
- Qualifications of Each Labor Category
- Geographic Coverage
- Net Ceiling Price for Each Line Item Offered
- Payment Terms
- Minimum Assignment Period



# **VA FSS Professional Services**

---

- **Price Proposal (cont'd)**
  - Commercial Sales Practice (CSP) Disclosures
    - Actual sales information
    - Best (lowest) price/terms and conditions billed and location of sale Best price billed recently
  - additional transactional data as requested
  - pricing validation for all SINS offered



# **VA FSS Professional Services**

---

- **Price Proposal (cont'd)**
  - **Commercial Sales Practice Disclosures**
    - **Commercial rate/quote sheets**
    - **Copies of commercial agreements**
  - **Additional relevant supporting documentation**



# **VA FSS Professional Services**

---

## **Pre-award reviews:**

- Over \$3 million per year, Office of Inspector General (OIG)
- Review offer for accuracy, completeness, and currency
  - Commercial Sales Practice (CSP) disclosures
- Recommend pricing position



## **VA FSS Professional Services**

---

- **Evaluate and Establish Objectives:**
  - Based on the offeror's current commercial pricing practices
  - Review of CSP disclosures
  - Review previous contract prices paid for same location
  - Review of the price/cost build-up
    - Utilize GSA Pricing Policy
      - Acquisition Letter FC-01-5, Supplement 1





# **VA FSS Professional Services**

---

## **How we negotiate:**

- Negotiation discussions are conducted via telephone conferences
- Agreement is reached regarding prices, terms and conditions
- Final Proposal Revisions (FPR) are submitted in writing at close of negotiations



# VA FSS Professional Services

---

## What do we award?

- Geographic Coverage
- Net Hourly Rate
- Shift Differentials
- Minimum Assignment Period
- Prompt payment
- Background Investigation
- Medical Liability Insurance
- Credit Card Acceptance



# VA FSS Professional Services

---

- **Award Decision - Determining Factors :**
  - Is it in the best interest of the Government?
  - Did we achieve a fair and reasonable price? Fair market value?
  - Is Offeror responsive and responsible?
  - Have all certifications and regulatory requirements been completed in their entirety?
  - Is past performance history satisfactory?
  - Do they have valid insurance to meet the requirement?
- If yes to all – contract is awardable.
- In-house review – over \$500,000 (above AD)



# **VA FSS Professional Services**

---

- **Customer Responsibility**
  - FAR 8.405-2 Ordering Procedures
    - Statement of Work
  - Adherence to the terms and conditions of the contract
  - Timely payments



# **VA FSS Professional Services**

---

- **Challenges**
  - Incorporating Service Contract Act into Commercial Items Acquisition
  - Performance Based Statements of Work for Direct Patient Care Services
  - Price Protection



# VA FSS Program

---

- Handouts
  - Commercial Sales Practice Section
  - Price Reduction Clause
  - Economic Price Adjustment Clause
  - Examination of Records Clause



# VA FSS Program

---

- QUESTIONS?





## **VA National Acquisition Center**

---

### **Carole O'Brien**

Director, Federal Supply Schedule Service  
(708) 786-4957

### **Dore Fessler**

Assistant Director, Medical Services  
(708) 786-5223

### **Paul Skalman**

Assistant Director, Medical Equipment and Supplies  
(708) 786-5247

### **Cheryl Ward-Roberts**

Assistant Director, Pharmaceutical, Dental and Other  
(708) 786-5259

**COMMERCIAL SALES PRACTICE SECTION  
FOR  
SUPPLY FSS PROGRAMS**

**Table 515.4-2 - INSTRUCTIONS FOR COMMERCIAL SALES PRACTICES FORMAT**

**Note: Clause 552.212-70 Preparation of Offer (Multiple Award)**

If you responded "YES" to question (3), on the COMMERCIAL SALES PRACTICES FORMAT, complete the chart in question (4)(a) for the customer(s) who receive your best discount. If you responded "NO" complete the chart in question (4)(a) showing your written policies or standard sales practices for all customers or customer categories to whom you sell at a price (discounts and concessions in combination) that is equal to or better than the price(s) offered to the Government under this solicitation or with which the offeror has a current agreement to sell at a discount which equals or exceeds the discount(s) offered under this solicitation. Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. If your offer is lower than your price to other customers or customer categories you will be aligned with the customer or category of customer that receives your best price for purposes of the Price Reduction clause at 552.238-75. The Government expects you to provide information required by the format in accordance with these instructions that is, to the best of your knowledge and belief, current, accurate, and complete as of 60 calendar days prior to its submission. You must also disclose any changes in your price list(s), discounts and/or discounting policies which occur after the offer is submitted, but before the close of negotiations. If your discount practices vary by model or product line, the discount information should be by model or product line as appropriate. You may limit the number of models or product lines reported to those which exceed 75% of actual historical Government sales (commercial sales may be substituted if Government sales are unavailable) value of the special item number (SIN).

**Column 1—Identify the applicable customer or category of customer.** A "customer" is any entity, except the Federal Government, which acquires supplies or services from the Offeror. The term customer includes, but is not limited to original equipment manufacturers, value added resellers, state and local governments, distributors, educational institutions (an elementary, junior high, or degree granting school which maintains a regular faculty and established curriculum and an organized body of students), dealers, national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category of customer if the offeror's discount policies or practices are the same for all customers in the category. (Use a separate line for each customer or category of customer.)

**Column 2—Identify the discount.** The term "discount" is as defined in solicitation clause 552.212-70 Preparation of Offer (Multiple Award Schedule). Indicate the best discount (based on your written discounting policies or standard commercial discounting practices if you do not have written discounting policies) at which you sell to the customer or category of customer identified in column 1, without regard to quantity; terms and conditions of the agreements under which the discounts are given; and whether the agreements are written or oral. Net prices or discounts off of other price lists should be expressed as percentage discounts from the price list which is the basis for your offer. If the discount disclosed is a combination of various discounts (prompt payment, quantity, etc.), the percentage should be broken out for each type of discount. If the price lists which are the basis of the discounts given to the customers identified in

**Table 515.4-2 - INSTRUCTIONS FOR COMMERCIAL SALES PRACTICES FORMAT  
(CONTINUED)**

the chart are different than the price list submitted upon which your offer is based, identify the type or title and date of each price list. The contracting officer may require submission of these price lists. To expedite evaluation, offerors may provide these price lists at the time of submission.

**Column 3—Identify the quantity or volume of sales.** Insert the minimum quantity or sales volume which the identified customer or category of customer must either purchase/order, per order or within a specified period, to earn the discount. When purchases/orders must be placed within a specified period to earn a discount indicate the time period.

**Column 4—Indicate the FOB delivery term for each identified customer.** (See FAR 47.3 for an explanation of FOB delivery terms.)

**Column 5—Indicate concessions regardless of quantity granted to the identified customer or category of customer.** Concessions are defined in solicitation clause 552.212-70 Preparation of Offers (Multiple Award Schedule). If the space provided is inadequate, the disclosure should be made on a separate sheet by reference.

**NOTE (1):** Please provide your proposed Government pricing in the following format or a similar format:

SIN #	NDC#/Item #	Description	Strength	Size	Unit

Commercial List Price (Indicate Date)	Proposed Gov't Discount off List Price	MFC** Discount off List Price	MFC Net Price	Name of MFC	Proposed Net FSS Price Without IFF*	Proposed Net FSS Price With IFF*

\*IFF - Industrial Funding Fee - See Clause 552.238-76.

\*\*Most Favored Commercial Customer.

**NOTE (2):** The following is a listing of additional discounts that you may employ when presenting your offer under this solicitation. You may provide your proposed Government offer for any or all of these additional discount situations in your own format.

- \*Quantity Discounts
- \*Annual Rebates
- \*Prompt Payment Discount
- \*Incentive Program Proposal

If you respond "YES" to question 4 (b) in the Commercial Sales Practices Format, provide an explanation of the circumstances under which you deviate from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format and explain how often they occur. Your explanation should include a discussion of situations

**Table 515.4-2 - INSTRUCTIONS FOR COMMERCIAL SALES PRACTICES FORMAT  
(CONTINUED)**

that lead to deviations from standard practice, an explanation of how often they occur, and the controls you employ to assure the integrity of your pricing. Examples of typical deviations may include, but are not limited to, one time goodwill discounts to charity organizations or to compensate an otherwise disgruntled customer; a limited sale of obsolete or damaged goods; the sale of sample goods to a new customer; or the sales of prototype goods for testing purposes.

If deviations from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format are so significant and/or frequent that the Contracting Officer cannot establish whether the price(s) offered is fair and reasonable, then you may be asked to provide additional information. The Contracting Officer may ask for information to demonstrate that you have made substantial sales of the item(s) in the commercial market consistent with the information reflected on the chart on the Commercial Sales Practice Format, a description of the conditions surrounding those sales deviations, or other information that may be necessary in order for the Contracting Officer to determine whether your offered price(s) is fair and reasonable. In cases where additional information is requested, the Contracting Officer will target the request in order to limit the submission of data to that needed to establish the reasonableness of the offered price.

**CSP-1      COMMERCIAL SALES PRACTICES FORMAT**

Name of Offeror \_\_\_\_\_

SIN(s) \_\_\_\_\_

**Note:** Please refer to clause 552.212-70, PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE), listed on page 75 for additional information concerning your offer. Provide the following information for each SIN (or group of SINs or SubSIN) for which information is the same.

- (1) Provide the dollar value of sales to the general public at or based on an established catalog or market price during the previous 12 month period or the offerors last fiscal year.

SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_

SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_

State beginning and ending of the 12-month period. Beginning \_\_\_\_\_ Ending \_\_\_\_\_. In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

- (2) Show your total projected annual sales to the Government under this contract for the contract term, excluding options, for each SIN offered. If you currently hold a Federal Supply Schedule contract for the SIN the total projected annual sales should be based on your most recent 12 months of sales under that contract.

SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_

SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_ SIN \_\_\_\_\_ \$ \_\_\_\_\_

- (3) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), are the discounts and any concessions which you offer the Government equal to or better than your best price (discount and concessions in any combination) offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES \_\_\_\_\_ NO \_\_\_\_\_. (See definition of "concession" and "discount" in 552.212-70)

- (4) (a) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), provide information as requested for SIN (or group of SINs for which the information is the same) in accordance with the instructions at Figure 515.4-2, which is provided in the solicitation for your convenience. The information should be provided in the chart below or in equivalent format developed by the offeror. Rows should be added to accommodate as many customers as required.

**CSP-1      COMMERCIAL SALES PRACTICES FORMAT (CONTINUED)**

Column 1 – Customer	Column 2 – Discount	Column 3 – Quantity/Volum e	Column 4 – FOB Terms( Destination or Origin)	Column 5 – Concession (Include Prompt Pay Discount)

**CSP-1      COMMERCIAL SALES PRACTICES FORMAT (CONTINUED)**

(b) Do any deviations from your written policies or standard commercial sales practices disclosed in the above chart ever result in better discounts (lower prices) or concessions than indicated? YES \_\_\_\_ NO \_\_\_\_\_. If YES, explain deviations in accordance with the instructions at Table 515.4-2 which is provided in this solicitation for your convenience.

(5) If you are a dealer/reseller without significant sales to the general public, you should provide manufacturers' information required by paragraphs (1) through (4) above for each item/SIN offered, if the manufacturer's sales under any resulting contract are expected to exceed \$500,000. You must also obtain written authorization from the manufacturer(s) for Government access, at any time before award or before agreeing to a modification, to the manufacturer's sales records for the purpose of verifying the information submitted by the manufacturer. The information is required in order to enable the Government to make a determination that the offered price is fair and reasonable. To expedite the review and processing of offers, you should advise the manufacturer(s) of this requirement. The contracting officer may require the information be submitted on electronic media with commercially available spreadsheet(s). The information may be provided by the manufacturer directly to the Government. If the manufacturer's item(s) is being offered by multiple dealers/resellers, only one copy of the requested information should be submitted to the Government. In addition, you must submit the following information along with a listing of contact information regarding each of the manufacturers whose products and/or services are included in the offer (include the manufacturer's name, address, the manufacturer's contact point, telephone number, and FAX number) for each model offered by SIN:

- (a) Manufacturer's Name \_\_\_\_\_
- (b) Manufacturer's Part Number \_\_\_\_\_
- (c) Dealer's/Reseller's Part Number \_\_\_\_\_
- (d) Product Description \_\_\_\_\_
- (e) Manufacturer's List Price \_\_\_\_\_
- (f) Dealer's/Reseller's percentage discount from List Price or net prices \_\_\_\_\_



**COMMERCIAL SALES PRACTICE SECTION  
FOR  
SERVICE FSS PROGRAMS**

**GENERAL INFORMATION FOR SUBMISSION OF PRICING**

- 1) This schedule is for professional labor categories that are not subject to the requirements of the Service Contract Act. Offeror shall only include professional labor categories in their offer. Offerors may offer on any single or combination of SINs. Offerors shall also define the geographic service area in which they are capable of performing. Offerors may propose nationwide and/or limited geographic area pricing. If different service areas and/or prices apply within a SIN it must be clearly identified. Pricing submitted should be in accordance with standard commercial pricing practice (e.g. labor rates or fixed unit prices etc.). Only pricing approaches for which an offeror can provide supporting documentation demonstrating that it is in fact a commercial practice will be acceptable.
- 2) All prices, under this schedule will be fixed price subject to economic price adjustment. A fixed-price contract with economic price adjustment provides for upward and downward revision of the stated contract price upon the occurrence of specified contingencies. The Government's experience is that commercial prices in this industry are not based on established pricelists or catalogs, rather they are based on "Market Prices" as defined below. Therefore, the Government expects price information to be submitted as outlined in this exhibit.
  - a) **Prices based on commercial "Market Price" defined in FAR 2.101 as:** current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.
    - i) Offerors shall indicate the SINs being offered and list the net pricing offered in terms of net value. In addition to the information required here and in the Commercial Sales Practice format of the solicitation, provide documentation to substantiate pricing (e.g. copies of invoices, proposals, pricing agreements with corporate customers, internal policies, market prices, quote sheets, etc.). Provide any other additional supporting documentation and/or rationale that will demonstrate price realism.
  - b) Economic prices adjustments to prices awarded as Market Price will be subject to the stability of market or labor conditions that exist during an extended period of contract performance. Price adjustments will be restricted to industry-wide contingencies and adjustments based on labor costs will be limited to the contingencies beyond the contractor's control. These conditions will be verified by obtaining adequate information to establish the base level from which adjustment will be made and may require verification of data submitted and are subject to I-FSS-969 Economic Price Adjustment FSS Multiple Award Schedule Market Prices.
- 3) In the event the Offerors' pricing is based on individual labor category by hourly rates, pricing shall include direct labor, fringe benefits, overhead, general and administrative expenses, profit or fee, payroll taxes and applicable required insurance. This is generally known as "fully loaded" rates. The offeror shall identify and clearly define each labor category and/or subcategory as provided in generic terms in the Schedule of Services for which an offer is made. The description of each labor category must include the experience, minimum training, certifications, and degrees of the offerors' personnel proposed, as applicable.

**FSS SERVICE PRICE PROPOSAL – (CONTINUED)**

- 4) Offerors shall include the Industrial Funding Fee (IFF) (1%) in the prices submitted with their offer. The fee will be included in the award price(s) and be reflected in the total amount charged to the ordering activities. See clause 552.238-74 Industrial Funding Fee (IFF), found elsewhere in the solicitation, for additional information regarding the collection and remittance of the IFF.
- 5) Offerors shall **not** include transportation costs in the price offered. Costs for transportation and lodging required for on-site services at an activity will be in accordance with the regulatory implementation of Public Law 99-234 and Federal Acquisition Regulation (FAR) 31.205-46, Travel Costs and the Contractor's cost accounting system/Federal Government Travel Regulations (FTR). The FTR can be found at: <http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd04d.html>. These costs may be directly reimbursed by the ordering activity, as specified in the task order. See clause C-FSS-370 Contractor Tasks / Special Requirement, found in section C.1.7 in the solicitation.

Any resultant Contractor under this schedule shall notify the ordering activity, in writing, of the proposed request for reimbursement of transportation and/or lodging expenses, at the time they are responding to a task order request. The Contractor shall only be reimbursed for these travel and per diem expenses as outlined on the executed task order.

**Reimbursements for costs that are not specifically addressed in this Solicitation or in the resultant Contract or task order ARE NOT ALLOWED. Generally it is a Government policy not to allow a charge of profit or fee on reimbursable items and to only reimburse actual costs consistent with the FTR. No reimbursement will be made by the Government for a Contractor's local travel\* unless otherwise determined by the ordering activity's Contracting Officer.**

Airfare shall be based upon the lowest available cost—coach or economy airfare. The use of any airfare other than coach or economy must be approved in writing in advance, by the ordering activity's Contracting Officer.

**NOTES:**

1. Regarding air fare: Contractors are not entitled to the government contract air fares that are awarded under the airline passenger transportation services (city-pair program) contract without the express consent of the airline. This applies even when a government activity and/or Contracting Officer authorize air travel.
  2. \*Local Travel: Field facility directors/head of activity are responsible for determining the areas to be covered by local travel. Travel outside of the normal commuting area of the facility may be reimbursable by the Government in accordance with FTR.
- 6) In addition to the information requested item 2 above, the offeror shall also include all supporting sales, pricing and billing information as requested in the Commercial Sales Practice format of this section.

**FSS SERVICE PRICE PROPOSAL – (CONTINUED)**  
**COMMERCIAL SALES PRACTICE DISCLOSURES (CSP)**

- 1) The following definitions apply to all disclosures under this solicitation:
  - a) **Concession**, as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to complementary/free hours, extended price guarantees and bonus services.
  - b) **Discount**, as used in this solicitation, means a reduction to net prices/rates (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions other than concessions) which reduce the amount of money a customer ultimately pays for services ordered or received. Any net price/rate lower than the standard price is considered a "discount" by the percentage difference from the standard price/rate to the net price.
  - c) **Customer**, as used in this solicitation, means any entity which acquires services from the Offeror. The term customer includes, but is not limited to state and local governments, educational institutions (an elementary, junior high, or degree granting school which maintains a regular faculty and established curriculum and an organized body of students), national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category of customer if the offeror's pricing policies or practices are the same for all customers in the category.
  - d) **Best Price**, as used in this solicitation, means the lowest net price/rate at which you sell to a customer or category of customers without regard to quantity; terms and conditions of the agreements; location; and whether the agreements are written or oral. If the price is a combination of various discounts/concessions (prompt payment, quantity, etc.), each type of discount/concession should be fully identified and explained. Provide documentation to substantiate pricing (e.g., agreements with corporate customers, internal policies, market prices, quote sheets, pricing agreements and invoices, etc.) and identify the effective period, pricing and any other terms and conditions clearly including any contingencies related to volume and/or quantity and location. If prices/rates are based on cost, provide information other than certified cost or pricing data to show how the offeror arrived at the proposed price/rate. A price certification is not required. If rates are audited by a Federal Agency, include this information in the narrative. Disclosures can be made on a separate sheet.
- 2) The offeror shall identify and clearly define each labor category and/or subcategory by **Special Item Number (SIN)** as provided in generic terms in the Schedule of Services for which an offer is made.
  - a) The description of each labor category must include the experience, minimum training, certifications, and degrees of the offerors' service providers, as applicable.
  - b) The specific locations/geographic coverage for which the offer is made. Offerors may limit the geographic service area to a minimum of one entire state in which they are capable of performance for each SIN. Therefore, pricing may be proposed for nationwide and/or limited geographic service coverage for a minimum of one entire state.
  - c) Provide a description of net prices/rates terms and conditions offered to the Government under this proposal base on your standard commercial selling practices. If the price is a combination of various discounts/concessions (prompt payment, quantity, etc.), each type of discount/concession should be fully

**FSS SERVICE PRICE PROPOSAL – (CONTINUED)  
COMMERCIAL SALES PRACTICE DISCLOSURES (CSP)**

identified and explained. Net rates in terms of price, and all additional rates terms and conditions shall be listed.

- d) Pricing submitted should be in accordance with standard commercial pricing practice (e.g. labor rates or fixed unit prices etc.). Only pricing approaches for which an offeror can provide supporting documentation demonstrating that it is in fact a commercial practice will be acceptable.
- 3) On Price Proposal Attachment 1a or similar format (note attachment 1 is a Microsoft excel spreadsheet, reference tab 1a), provide the total dollar value of sales to all customers during the previous 12-month period or the offerors last fiscal year. Further break down these sales figures into two categories: 1) general public/state or local government and 2) Federal Government customers at or based on market prices, cost build up or an established catalog or market price by SIN. State beginning and ending of the 12-month period. In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s). In the event sales are made only to state or local governments, identify such sales accordingly.
- 4) On Price Proposal Attachment 1b or similar format (note attachment 1 is a Microsoft excel spreadsheet, reference tab 1b), provide your total projected annual sales to the Government under this contract for a one year period, for each SIN offered. If you currently hold a Federal Supply Schedule contract for the SIN the total projected annual sales should be based on your most recent 12 months of sales under that contract. On an attachment provide a clear explanation of how you estimated your total projected annual sales to the Government under this contract.
- 5) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), are the prices/rates (discounts, concessions, terms and conditions in any combination) which you offer the Government equal to or better than that offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES \_\_\_\_\_ NO \_\_\_\_\_.
- a) If you answer **NO** to this question, on an attachment provide an explanation of why the net prices terms and conditions offered to the Government are not equal to or better than offered to any commercial customer acquiring the same items.
- 6) Based on your written pricing policies (standard commercial sales practices in the event you do not have written pricing policies), provide information as requested for each SIN (or group of SINs for which the information is the same) in regards to net pricing/rates. The information should be provided in the format requested in the format on attachments 1c, 1d and 1e or in an equivalent format developed by the offeror. (note attachment 1 is a Microsoft excel spreadsheet, reference tabs 1c, 1d, and 1e) Complete the charts showing your written policies or standard sales practices for all customers or customer categories with which the Offeror has a current or recent agreement to sell.
- a) You are obligated to disclose the best price/rate (based on your written pricing policies or standard commercial pricing practices if you do not have written pricing policies) at which you sell to the customer or category of customer, without regard to location; quantity; terms and conditions of the agreements; and whether the agreements are written or oral.



**EXHIBIT 3 – PRICE PROPOSAL COMMERCIAL SALES PRACTICE DISCLOSURES  
(CSP)- (CONTINUED)**

- b) Offeror is obligated to disclose your written policies or standard sales practices for all customers or customer categories to whom you sell at a price/rate that is equal to or better than the price(s)/rate(s) offered to the Government under this solicitation or with which the Offeror has a current agreement to sell at a price/rate which is equal to or better than the price(s)/rate(s) offered under this solicitation.
  - c) Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. If price(s)/rate(s) disclosed are for an effective date other than within the last 30 days the time frame of the rates shall be disclosed.
  - d) The Government expects you to provide information required by the format in accordance with these instructions that is, to the best of your knowledge and belief, current, accurate, and complete as of 30 calendar days prior to its submission.
  - e) You must also disclose any changes in your, discounts, prices and/or policies that occur after the offer is submitted, but before the close of negotiations.
  - f) If your pricing practices vary, the variations should be explained clearly to include a description of the circumstance, frequency, delivery locations and selling terms and conditions as applicable.
- 7) Provide documentation to substantiate pricing (e.g., agreements with corporate customers, internal policies, market prices, quote sheets, pricing agreements and invoices, etc.) and identify the effective period, pricing and any other terms and conditions clearly.
- 8) In the event your offer includes pricing on individual labor category by hourly rates provide information other than certified cost or pricing data to show how you arrived at the proposed price rates. Pricing shall include direct labor, fringe benefits, overhead, general and administrative expenses, profit or fee, payroll taxes, applicable required insurance and industrial funding fee. This is generally known as "fully loaded" rates. Provide a price-build up for the net price offered the Government for each category offered including any of the applicable elements broken out. See Price Proposal Attachment 1f example or similar format (note this is a Microsoft excel spreadsheet, reference tab 1f). A price certification is not required. If rates are audited by a Federal Agency, include this information in the narrative. Disclosures should be made on a separate sheet.
- 9) Do any deviations from your written policies or standard commercial sales practices disclosed in any of the charts the charts above ever result in better prices than indicated?  
YES \_\_\_\_\_ NO \_\_\_\_\_.

If **YES**, explain deviations in accordance with the following instructions:

- a) Provide an explanation of the circumstances under which you deviate from your written policies or standard commercial sales practices disclosed in the charts above and explain how often they occur. Your explanation should include a discussion of situations that lead to deviations from standard practice, an explanation of how often they occur, and the controls you employ to assure the integrity of your pricing.
- b) If deviations from your written policies or standard commercial sales practices disclosed in the charts requested are so significant and/or frequent that the Contracting Officer

**EXHIBIT 3 – PRICE PROPOSAL COMMERCIAL SALES PRACTICE DISCLOSURES  
(CSP)- (CONTINUED)**

cannot establish whether the price(s) offered is fair and reasonable, then you may be asked to provide additional information.

- c) The Contracting Officer may ask for information to demonstrate that you have made substantial sales of the item(s) in the commercial market consistent with the information reflected on the charts above a description of the conditions surrounding those sales deviations, or other information that may be necessary in order for the Contracting Officer to determine whether your offered price(s) is fair and reasonable. In cases where additional information is requested, the Contracting Officer will target the request in order to limit the submission of data to that needed to establish the reasonableness of the offered price.

**ECONOMIC PRICE ADJUSTMENT CLAUSE FOR SUPPLY PROGRAMS****552.216-70 ECONOMIC PRICE ADJUSTMENT - FSS MULTIPLE AWARD  
SCHEDULE CONTRACTS (SEP 1999)-- ALTERNATE I (SEP 1999)(LOCAL  
DEVIATION)**

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

- (a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.
- (b) Contractors may request price increases when all of the following conditions are met:
  - (1) Increases result from a reissue or other modification of the Contractor's commercial catalog/price list that was used as the basis for the contract award.
  - (2) Increases are requested before the last 60 days of the contract period.
  - (3) At least 30 days elapse between requested increases.
- (c) The following material shall be submitted with the request for a price increase:
  - (1) A copy of the commercial catalog/price list showing the price increase and the effective date for commercial customers.
  - (2) Commercial Sales Price format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/price list, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.
  - (3) Documentation supporting the reasonableness of the price increase.
- (d) The Government reserves the right to exercise one of the following options:
  - (1) Accept the Contractor's price increases as requested when all conditions of (b) and (c), above, are satisfied;
  - (2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,
  - (3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.
- (e) The contract modification reflecting the price adjustment shall be and made effective upon signature of the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to the delivery orders issued to the Contractor on or after the effective date of the contract modification.

**NOTE 1:** There is a slightly different application here for 65IB due to Public Law 102-585.

**NOTE 2:** The tracking customer's price must be disclosed with your request for increases. The awarded tracking customer and the established ratio at time of award will affect your ability to receive an increase.

**ECONOMIC PRICE ADJUSTMENT CLAUSE FOR FSS SERVICE PROGRAM****I-FSS-969 ECONOMIC PRICE ADJUSTMENT--FSS MULTIPLE AWARDSCHEDULE  
(JAN2002) (DEVIATION DEC 2004)**

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Modifications Clause.

(b) Economic price adjustments under the Multiple Award Schedules (MAS) program for contracts not based on commercial catalogs or price lists will be handled as described below. Price adjustments may be effective on or after the first 12 months of the contract period and every consecutive 12 month period thereafter on the following basis:

(1) Adjustments will be based upon a market indicator. The market indicator, as used in this clause, means the originally released public index, public survey or other public, based market indicator. The market indicator shall be the originally released Consumer Price Index – All Urban Consumers (CPI-U), not seasonally adjusted, U.S. City average, published by the Bureau of Labor Statistics, U.S. Department of Labor for Series ID CUUS0000SEMC, Medical Care Services, Professional Services, published by the US Bureau of Labor Statistics, and made available at [www.bls.gov](http://www.bls.gov). Any price adjustment shall be based on the percentage change in the designated (i.e. indicator identification and date) market indicator from the initial award to the latest available as of the anniversary date of the contract effective date, subject to paragraph (e), below. If the market indicator is discontinued or deemed no longer available or reliable by the Government, the Government and the Contractor will mutually agree to a substitute. The contract modification reflecting the price adjustment will be effective upon approval by the Contracting Officer, subject to paragraph (g), below. The adjusted prices shall apply to orders issued to the Contractor on or after the effective date of the contract modification.

(c) Notwithstanding the economic price adjustments discussed above, the Government recognizes the potential impact of unforeseeable major changes in market conditions. For those cases where such changes do occur, the contracting officer will review requests to make adjustments, subject to the Government's examination of industry-wide market conditions and the conditions in paragraph (d) and (e), below. If adjustments are accepted, the contract will be modified accordingly. The determination of whether or not extraordinary circumstances exist rests with the contracting officer. The determination of an appropriate mechanism of adjustment will be subject to negotiations.

(d) Conditions of Price change requests under paragraphs (b)(1) and (c) above.

(1) No more than one increase will be considered during each succeeding 12 month period of the contract subject to the conditions of paragraph (b) above. No more than a total of three increases will be considered subject to paragraph (c) above or combination of (b) and (c) above. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of subparagraphs (b) and (c).

(2) Increases are requested before the last 60 days of the contract period, including options.

(3) At least 30 days elapse between requested increases.

(4) In any contract period during which price increases will be considered, the aggregate of the increases during any 12 month period shall not exceed five



**I-FSS-969 ECONOMIC PRICE ADJUSTMENT--FSS MULTIPLE AWARDS SCHEDULE**  
**(JAN2002) (DEVIATION DEC 2004)(CONTINUED)**

percent (5%) of the contract unit price in effect at the end of the preceding 12 month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(e) The following material shall be submitted with request for a price increase under paragraphs b (1) and c above:

- (1) A copy of the index, survey or pricing indicator showing the price increase and the effective date.
- (2) Commercial Sales Practice format, per contract clause 52.215-21 Alternate IV, demonstrating the relationship of the Contractor's commercial pricing practice to the adjusted pricing proposed or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.
- (3) Any other documentation requested by the Contracting Officer to support the reasonableness of the price increase.

(f) The Government reserves the right to exercise one of the following options:

- (1) Accept the Contractor's price increases as requested when all conditions of (b), (c), (d), and (e) of this clause are satisfied;
- (2) Negotiate more favorable prices when the total increase requested is not supported; or,
- (3) Decline the price increase when the request is not supported. The Contractor may remove the item(s) from contract involved pursuant to the Cancellation Clause of this contract.

(g) Effective Date of Increases: No price increase shall be effective until the Government receives the electronic file updates pursuant to the Modifications clause of this contract.

(h) All MAS contracts remain subject to contract clauses GSAR 552.238-75, "Price Reductions"; and 552.215-72, "Price Adjustment Failure to Provide Accurate Information."

**PRICE REDUCTION CLAUSE FOR VA FSS PROGRAMS****552.238-75 PRICE REDUCTIONS (MAY 2004)**

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor—

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales—

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies;

(3) Made to State and local government entities when the order is placed under this contract (and the State and local government entity is the agreed upon customer or category of customer that is the basis of award); or

(4) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

**AUDIT CLAUSES FOR ALL VA FSS PROGRAMS****AS13 EXAMINATION OF RECORDS BY VA (MULTIPLE AWARD SCHEDULE) (FEB 1998)**

(a) The Contractor agrees that the Secretary of the Department of Veterans Affairs or any duly authorized representative shall have access to, and the right to examine, any books, documents, papers, computer tapes, and any other directly pertinent records of the Contractor to verify that the pre-award pricing, sales, marketing and other data, related to the supplies or services offered under the contract which formed the basis for award, were accurate, complete and current. This right to initiate an audit exists for two (2) years after each of the following events:

- (1) contract award, or
- (2) the date of modification adding this clause to the contract, or
- (3) the date of modification to the contract which requires new Commercial Sales Practices information, with the right, in this instance only, being limited to information contained in the modification.

(b) The Contractor agrees that the Secretary of the Department of Veterans Affairs or any duly authorized representative shall have access to, and the right to examine, any books, documents, papers, computer tapes, and any other directly pertinent records of the Contractor related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee clause of this contract. The authority to initiate post award audits shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of the review for overbillings, billing errors and price reductions. Further information is contained in 552.215-72 PRICE ADJUSTMENT - FAILURE TO PROVIDE ACCURATE INFORMATION (Aug 1997)

**1423**  
**Panel**

# **SECTION 1423**

## **ACQUISITION ADVISORY PANEL**

**Governmentwide Contracts and  
Interagency Contract Vehicles  
Working Group**

**Presentation of Preliminary Recommendations**  
**November 29, 2005**

**These slides contain preliminary working group recommendations  
for discussion purposes only. They have not  
been approved by the Acquisition Advisory Panel**

**1423  
Panel**

## **Governmentwide Contracts and Interagency Contract Vehicles**

**Jonathan Etherton (Co-Chair)**

**Frank Anderson (Co-Chair)**

**Deidre Lee**

**Thomas Luedtke**

**Melanie Sabelhaus/David Javdan**

**Roger Waldron (Advisor)**

# Issues

Issues and recommendations arise from four basic questions:

- **What are they?**
- **Why do agencies use them?**
- **How do agencies use them?**
- **How should agencies use them?**

## Contents of Draft Report to the Full Panel

- Introduction
- General Background
  - What are they?
    - Includes enterprisewide vehicles and assisting entities
    - Stakeholders
  - Why are they created and used?
- Issue: Creation and Continuation of Interagency Vehicles
  - Background
  - Findings
  - Recommendations
- Issue: Competition
  - Background
  - Findings
  - Recommendations
- Issue: Pricing (To Commercial Practices Working Group)
  - Background
- Issue: Acquisition Workforce (In coordination with Acquisition Workforce WG)
  - Background
  - Findings
  - Recommendations



1423

Panel

# Preliminary Recommendations Creation and Continuation

- Principles and objectives

- OMB accountable for policies, procedures and guidance
- Agencies accountable for authorization, reauthorization and management of vehicles under OMB guidance (auditable)
- Process over time should result in a coordinated and more meaningful set of vehicles that minimizes unproductive overlap by following consistent policies across agencies
- However, recommendations may lead to an interim rather than a long-term solution.
  - Implementation of the proposals should result in steps that do not foreclose different approaches down the road.



1423

Panel

# Preliminary Recommendations

## Creation and Continuation

- Amend current OMB approval procedures for GWACS and Franchise Funds creation and reauthorization to require greater focus on meeting need and other criteria.
- Institute a requirement that each agency under guidance issued by OMB formally authorize the creation, continuation or expansion of the following vehicles under its jurisdiction:
  - Multi-agency contracts
  - Enterprisewide vehicles (Need a definition that would exclude vehicles like DLA bulk fuel contracts)
  - Assisting entities that propose to offer assistance to other agencies and that use fees to support operations
  - GSA schedules program (for services?)
- Require a reauthorization of each vehicle using similar criteria after some appropriate period consistent with the nature or type of the vehicle.
- Need to develop criteria that are distinct from criteria used in making individual contract renewal or options decisions

1423

Panel

# Preliminary Recommendations Creation and Continuation

- OMB promulgation of detailed policies, procedures, and requirements that agencies must follow in their process of authorization and reauthorization.
- Have the OMB interagency task force define the process and the mechanism.
- Policies, procedures and requirements should include:
  - Business case justification analysis (GWACS as model).
  - Projected scope of use.
  - Explicit coordination with other vehicles/entities.
  - Assessment of market place dynamics.
  - Ability of agency to apply resources to manage vehicle.
  - Projected life of vehicle.
  - Appropriate use of contractors in the implementation of the vehicle.
  - Upfront requirements planning by ordering agencies before access to vehicles is granted.
    - Different set of issues for direct order type vehicles versus vehicles used for assisted buys.
    - Defining responsibilities of the vehicle holders a complex problem.
  - Fee calculation guidelines.
  - Procedures to establish bona fide need to prevent parking money.
  - Required training for ordering agencies' personnel.

1423

Panel

# Preliminary Recommendations Creation and Continuation

- Policies, procedures and requirements should include (cont'd.):
  - Allocation of responsibilities among vehicles holders, ordering agencies and other stakeholders as a condition of use, including responsibility for data input.
  - Emergency response requirements.
  - Competition process and requirements.
  - Contract length and innovation.
  - Pricing requirements for services.
  - Agency performance standards and metrics.
  - Performance monitoring system.
  - Process for ensuring transparency of vehicle features and use.
    - Defined point of contact for public – Ombudsman.
  - Defined relationship to agency mission (suitability criteria).
  - Address distinction between agency (NASA) expansion of internal mission-related vehicles to other agencies vs. creation of vehicles from the ground up as interagency vehicles (NIH).

1423

Panel

# Preliminary Recommendations Creation and Continuation

- Increased transparency through data base of vehicles.
  - Module within transactions-based FPPDS-NG.
- Data requirements must be configured for three distinct purposes.
  - Identification of vehicles with features for agencies use in matching to acquisition requirements (yellow pages).
  - Use by public and oversight organizations to monitor trends in use.
    - Improved granularity in fee calculations
    - Standard FPPDS-NG reports
  - Use by agencies in business case justification analysis.
- Institute a detailed analysis of the effectiveness of Panel recommendations and agency actions in addressing the findings and deficiencies in the Acquisition Advisory Panel report.
  - Identification of unintended consequences.
  - Time frame: five years after initial implementation with an interim report after three years.



1423

Panel

# Preliminary Recommendations Competition

- Principles and objectives
  - Competition is beneficial along a number of dimensions.
  - Governmentwide standard for awarding task orders is appropriate for interagency vehicles.
  - Balancing preservation of streamlined aspects of the vehicles process with greater use of competitive procedures.
  - Coordination with the findings and recommendations of the Commercial Practices Working Group.

# Preliminary Recommendations Competition

1423  
Panel

- Apply requirements under section 803 of the national Defense Authorization Act for Fiscal Year 2002 to all agencies' use of interagency contract vehicles (including assisting entities)
  - 803 requirements (Applicable to all DoD Task and Delivery Orders, not just those under interagency vehicles )
    - Purchase of services over \$100K under multiple award contracts
    - Requirement to be made on a competitive basis
    - CO may waive if:
      - 10 U.S.C.2304c(b)(1)-(4) applies, or
      - Statutorily directed
    - Competition means:
      - Notice to all contractors
      - All responding contractors given fair consideration
      - As many as practicable allowed, but award only if:
        - » Three qualified offers received, or
        - » CO prepares D&F that no others identifiable

# Preliminary Recommendations Competition

- **Stricter enforcement of rules removing contractors from the GSA schedules and other vehicles who do not meet minimum requirements for orders over time.**
  - Increase pressure on the industry to compete for contracts.

1423

Panel

# Preliminary Recommendations Workforce

- Principles and objectives
  - Create explicit requirements in creation and continuation for training in the use of interagency vehicles for certification and permission to use
  - Institute OMB-led review of existing training for adequacy
    - Inventory available programs
    - Quality and relevance
  - Close coordination with the findings and recommendations of the Acquisition Workforce Working Group.